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**COMMENTS ON 14-S 3035 – UNDERGROUND ECONOMY AND EMPLOYEE
MISCLASSIFICATION ACT
June 4, 2014**

The ACLU appreciates the goal behind this legislation and the creation of a task force to investigate the practice of employee misclassification. However, we are very concerned about the breadth of the language contained on Page 2, lines 20-23, allowing for the unfettered sharing of a broad range of confidential information among the six state agencies serving on the Task Force.

There is little question that the agencies represented on the task force – including the Division of Taxation, the Department of Labor and Training, and the Department of Public Safety – maintain a wide range of confidential information about Rhode Island residents. This legislation would brush aside all state laws designed to protect the confidentiality of those records and allow for the sharing of personal information among all these agencies, without any specified limits, in order to “combat the underground economy and employee misclassification.”

We believe it is critical that this section should be much more specific on the particular types of information that would be subject to sharing and the particular statutes that would be overridden. Without clarifying and tightening up this language, we believe this legislation would amount to a serious breach of Rhode Islanders’ privacy, even if for this good cause. We are happy to work with the sponsor to determine language that will address these concerns while still promoting the goals of the Task Force.

We have prepared two initial suggestions for amendments that may address these needs. First, section 42-155-5 can be amended by adding a sentence to the end: “Information shared shall not include any individually-identifiable information regarding employees or applicants.” This amendment ensures that the information shared between agencies is related to the conduct of the business owners or employers, and does not result in the investigation of innocent employees.

Should the committee feel that language is not conducive to the goals of the Task Force, we urge the deletion of page 2, lines 20-23. In the section below, the legislation requires the Task Force to “identify any administrative or legal barriers impeding the more effective operation of the task force, including any barriers to information sharing”. By deleting lines 20-23 and waiting for the Task Force’s report, we believe the General Assembly may be more appropriately able to address the direct information sharing needs of the Task Force without the concerns of overbreadth that we have raised.

We hope the committee will look favorably upon amendments to address this concern, and look forward to working with the sponsor on any appropriate language.